

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RICKY L. MEYER,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:06CV114 HEA
)	
DON ROPER,)	
)	
Respondent,)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation of Magistrate Judge Audrey G. Fleissig that Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, [Doc. No.1], be denied. On February 4, 2009, Petitioner filed a Motion for Extension of Time to File an Appeal. On February 5, 2009, the Court denied this Motion as premature, but granted Petitioner thirty days from February 5, 2009 to file objections to Judge Fleissig's Report and Recommendation. Petitioner has not filed any objections to the Report and Recommendation within this time period.

After careful consideration, the Court will adopt and sustain the thorough analysis and reasoning of Judge Fleissig as set forth in her January 26, 2009 Report and Recommendation.

Certificate of Appealability

The federal statute governing certificates of appealability provides that "[a] certificate of appealability may issue . . . only if the applicant has made a substantial

showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that “issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Based on the record, and the law as discussed in Judge Fleissig’s Report and Recommendation, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right.

Accordingly,

IT IS HEREBY ORDERED that the Petition of Ricky L. Meyer for Writ of Habeas Corpus, [Doc. No. 1], pursuant to 28 U.S.C. § 2254 is denied.

IT IS FURTHER ORDERED that a Certificate of Appealability will not issue in that, as Petitioner has not made a substantial showing of the denial of a federal constitutional right.

A separate judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 26th day of March, 2009.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE